

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

FRED SHANGIN, DENISE BERESKIN, and
MICHAEL ENRIGHT

Plaintiffs,

vs.

DALE L. CARLSON, *in personam*; and the
F/V TAJAHA, USCG ID Number 644238,
HER ENGINES, MACHINERY,
APPURTENANCES AND CARGO, *in rem*,

Defendants.

IN ADMIRALTY

No. 3:19-cv-00299-SLG-DMS

**REPORT AND RECOMMENDATION
TO GRANT PLAINTIFF'S MOTION TO
DISMISS WITHOUT PREJUDICE**
[Dkt. 14]

Plaintiffs Fred Shangin, Denise Bereskin, Michael Enright, and Cecil Kalmakoff have filed a motion to dismiss this case without prejudice (Dkt. 14). The plaintiffs inform the Court that a settlement has been reached between the parties and the precise payment terms have been reduced to writing and agreed to (Dkt. 14). Although they seek dismissal, the plaintiffs ask the Court to retain jurisdiction over this matter until the final installment of the settlement is paid in mid-August 2020, at which time the Plaintiffs promise to promptly notify the Court of the status of settlement (Dkt. 14).

Rule 41(a)(2) of the Federal Rules of Civil Procedure permits a trial court to dismiss an action without prejudice at the plaintiff's request, even after an opposing party has served an answer. Such dismissal may be made "on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). The Supreme Court has observed that as one of these terms or conditions a court may retain jurisdiction for the purpose of ensuring the parties' compliance with the terms of an agreed upon settlement contract. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 381 (1994); *see also*

Alvarado v. Table Mountain Rancheria, 509 F.3d 1008, 1017 (9th Cir. 2007) (“a federal court has [ancillary] jurisdiction to enforce a settlement agreement in a dismissed case when the dismissal order incorporates the settlement terms, or the court has retained jurisdiction over the settlement contract”).

For these reasons, the Court recommends granting the plaintiffs’ motion at docket 14 in accordance with the terms of their proposed order at docket 14-1.

DATED this 24th day of July, 2020 at Anchorage, Alaska.

S/DEBORAH M. SMITH
CHIEF U.S. MAGISTRATE JUDGE